

## **REMARKS**

Careful consideration has been given by the applicants to the Examiner's comments and rejection of the claims, as set forth in the outstanding Office Action, and favorable reconsideration and allowance of the application, as amended, is earnestly solicited.

With regard to the specification, pursuant to the Examiner's requirements, applicants have herewith incorporated the required section headings, and also eliminated reference to pending claims, thereby fully rendering the grounds of objection to be moot.

Furthermore, with regard to the rejection of Claims 12-14 under 35 U.S.C. §112, second paragraph, applicants apologize for inadvertently omitting a portion of Claim 12 in the previously submitted Preliminary Amendment, and appropriate amendatory action has been taken in that regard.

Furthermore, applicants also note the Examiner's rejection of Claims 1-16 under 35 U.S.C. §102(b) as being allegedly anticipated by Daly, et al., U.S. Patent No. 5,536,271, as extensively detailed in the Office Action.

However, upon careful consideration of the cited reference, applicants respectfully submit that the claims clearly contain features for which patent protection should be granted and that these also inventively provide subject matter not at all disclosed nor suggested in Daly, et al.

In particular, in order to more clearly distinguish over the cited publication, applicants have cancelled Claims 2 and 3 without prejudice or disclaimer and incorporated the limitations thereof into Claim 1; and moreover, various features from Claim 12 have also been incorporated into Claim 1.

With regard to the foregoing, the amendments implemented to the claims render these clearly and patentably distinct over the art, in particular, since in Claim 1 it is now specified that “the second claw is of a two-part construction having a distal part and a proximal part wherein the distal part is displaceable relative to the proximal part to enable displacement of the second claw”. Furthermore, also incorporated is a statement and feature in Claim 1 indicating that “wherein displacement of the second claw in the craniocaudal direction is enabled by a parallel displacement device”. These particular limitations, which were essentially present in Claims 2, 3 and partly in Claim 12, as originally filed, are fully supported by the specification on Page 3, Lines 12-16; Page 4, Lines 21-22; and Page 5, Line 16-19; as well in the dependent Claims 2 and 3; and portions of Claim 3, as now incorporated into Claim 1.

The foregoing amendments clearly and unambiguously distinguish over the cited reference to Daly, et al., concerning which applicants submit the following arguments in traverse of the rejection of the claims as being unpatentable over Daly, et al.:

Daly, et al. disclose a system for preparing a natural patella for implantation of a patellar prosthesis having a fixation surface and fixation means projecting from the fixation surface. The system further comprises support means, reamer means, an elongated shaft extending between a driving end for attachment to driver means and a driven end distant from the driving end, bore cutting means, a patella basket, stop means and guide means. As can be ascertained, e.g., from Figures 2A and 2B of the Daly, et al. reference, the patellar clamp 36 includes a first handle 46 for releasable mounting the first jaw mechanism 38 and a second handle 48 for releasably mounting the second jaw mechanism 42. The handles 46, 48 are pivotally joined at a pin 50, and the patellar clamp 36 further includes a pair of parallel, spaced apart links 52, 54, wherein a first link 52 mounts a first connector 56 at one end and a second link 54 mounts a second connector

58 at an adjacent end. Consequently, in the reference a mechanism is provided which enables a displacement of the first and second jaws in a craniocaudal direction similar to the parallel displacement device according to the present invention. However, contrary to the present invention, the mechanism shows in the Daly, et al. reference does not enable an additional displacement of the second jaw in the anteroposterior and/or mediolateral direction parallel to the first jaw. Moreover, the second jaw according to Daly, et al. is not of a two-part construction, as specified according to Claim 1 of the present invention, which enables implementing this additional displacement direction. Hereby, only the connectors can be moved to the left (as indicated by an arrow 84 shown in Fig. 2A), which, however, makes the first and second jaws move towards each other (thus, in the craniocaudal direction) so as to close and firmly grip the mounting end.

In contrast with the Daly, et al. reference, according to the present invention, there is enabled not only the displacement of the second claw in the craniocaudal direction, but additionally also in the anteroposterior direction by means of the two-part construction of the second claw. This avoids the generating of transverse stresses with high frictional forces between the ligament tensioning device and the bone resting thereon which may result in causing damage to the adjacent bone tissue of a patient during the course of an operation and in sudden displacements of the ligament tensioning device and/or the bone due to encountered ligament tension. In practice, this is achieved by the present invention in that the ligament-tensioning device is configured so as to have a claw arranged, which is displaceable in the anteroposterior direction and movable relative to the other claw. The displaceable claw is locked during introduction and the spreading apart of the ligament-tensioning device. Once the desired spreading force has been reached, the operator may release the locking device by pressing on the

end thereof such that the extension is no longer engaged with the catches of the projection. In this manner, the proximal part of the claw slides in the posterior direction, pulled by the femur condyles bearing on the bearing surface of the claw until the knee joint is stress-free in this direction. As a result, no jerky or abrupt stress dissipation can occur during the operation, while in addition, the frictional force on the periosteum is reduced and the latter is thereby protected. This procedure cannot be carried out by means of the system disclosed in Daly, et al. since their device does not offer the relative displacement of the claws in the anteroposterior direction.

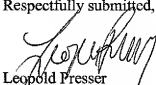
In summation, predicated upon the amendments which have been clearly implemented in the pending claims and which provide for novel structural and functional distinctions over the art, as represented by Daly, et al., the latter publication neither anticipates the claims, nor does it render the subject matter thereof obvious to one of skill in this particular technology.

The various dependent claims, as amended herein and which have also been more closely conformed to the U.S. claim drafting practice, provide further limitations in their dependencies upon Claim 1, and are also deemed to be allowable in conjunction therewith.

Accordingly, in view of the foregoing comments and amendments, the early and favorable reconsideration and allowance of the application by the Examiner is earnestly solicited.

However, in the event that the Examiner has any queries concerning the instantly submitted Amendment, applicants' attorney respectfully requests that he be accorded the courtesy of possibly a telephone conference to discuss any matters in need of attention.

Respectfully submitted,



Leopold Presser  
Registration No. 19,827  
Attorney for Applicants

SCULLY, SCOTT, MURPHY & PRESSER, P.C.  
400 Garden City Plaza – Suite 300  
Garden City, New York 11530  
(516) 742-4343

LP:jy